

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

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| GRETCHEN S. WADDELL, |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) Civil Action No. 5:13-02806-MGL |
| CAROLYN W. COLVIN, |) |
| Acting Commissioner of Social Security, |) |
| |) |
| Defendant. |) |

ORDER

Plaintiff Gretchen S. Waddell brought this action to obtain judicial review of a final decision of Defendant denying Plaintiff's application for a period of disability, disability insurance benefits, and supplemental security income. *See* 42 U.S.C. § 405(g). On October 20, 2014, the Court remanded Defendant's decision pursuant to sentence four of § 405(g) for further administrative proceedings.

This matter now is before the court on Plaintiff's motion for attorney's fees filed on May 9, 2016, for requested fees in the amount of \$9,571.62, which represents 25% of Plaintiff's past due benefits, under the Social Security Act, 42 U.S.C. § 406(b). Plaintiff's counsel has been granted fees by this Court in the amount of \$7,147.14, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002), the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such statutory ceiling, and instructs courts to review for reasonableness fees yielded by such agreements. In addition, if

the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant. *Id.* at 796.

Upon review of the materials submitted to the Court, the Court holds Plaintiff's request for attorney fees is reasonable, and it is the judgment of the Court that Plaintiff's Motion for Attorney Fees is GRANTED. Therefore, it is ordered that Plaintiff's counsel may collect a fee of \$9,571.62. Plaintiff's counsel must refund to the Plaintiff the EAJA award of \$7,147.14.

Signed this 28th day of December, 2016, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE